

In the  
United States Court of Appeals  
For the Eleventh Circuit

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No. 25-10515

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CENTER FOR BIOLOGICAL DIVERSITY,

Petitioner,

*versus*

U.S. ENVIRONMENTAL PROTECTION AGENCY,  
ADMINISTRATOR, U.S. ENVIRONMENTAL  
PROTECTION AGENCY,

Respondents.

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Petition for Review of a Decision of the  
Environmental Protection Agency  
Agency No. FRL-12519-01-0A

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Before GRANT and BRASHER, Circuit Judges.

BY THE COURT:

The Center for Biological Diversity (“the Center”), pursuant to the Clean Air Act, 42 U.S.C. § 7607(b)(1), petitions for review of the Environmental Protection Agency’s (“EPA”) decision to approve Mosaic Fertilizer, LLC’s use of phosphogypsum. That decision is reflected in the EPA’s December 23, 2024, notice.

Jurisdictional questions asked the parties to address whether (1) the Center should have filed its petition in the U.S. Court of Appeals for the D.C. Circuit, and (2) the Center has standing to challenge the relevant EPA action. The parties agree that we are the correct venue for this petition under § 7607(b)(1). However, the EPA argues that it is unlikely that the Center will be able to establish standing to challenge its action. The EPA contends that it is unable to fully analyze the issue because the Center has not yet provided evidence in support of its standing. Conversely, the Center asserts that it has associational standing to challenge the relevant EPA action on behalf of its members and will establish that through evidence submitted at a later date.

We are the correct court to review the Center’s § 7607(b)(1) petition because the EPA action at issue was “locally or regionally applicable,” and the EPA Administrator did not find and publish that the action was “based on a determination of nationwide scope or effect.” See 42 U.S.C. § 7607(b)(1); *Hunt Refin. Co. v. U.S. Env’t Prot. Agency*, 90 F.4th 1107, 1110-12 (11th Cir. 2024); *RMS of Ga.*,

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Order of the Court

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*LLC v. U.S. Env't Prot. Agency*, 64 F.4th 1368, 1373-74 (11th Cir. 2023).

However, we are unable to determine at this time whether the Center has standing to challenge the EPA action because the Center has not yet submitted evidence in support of its contention that it has associational standing to bring this case on behalf of its members. Therefore, we CARRY WITH THE CASE the jurisdictional issue of whether the Center has standing to challenge the relevant agency action. A final determination regarding this jurisdictional issue will be made by the panel to whom this case is submitted after briefing on the merits is completed. In their merits briefs, the parties are not required to discuss the jurisdictional issue in great detail, but they may address it as they deem necessary or appropriate.